

# THE DANGER OF ANTI-MADH'HAB

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Malaysia is without a doubt, an Islamic country that is guided by the foundational principles of Ahlus Sunnah Wal-Jamaah. Aqidah (belief), syariah (law) and *akhlak ummah* (behaviour of followers) are always protected so that they correspond with the principles imbedded in that foundation. In leading Muslim followers (*ummah*) on the right path, the scholars of Ahlus Sunnah Wal-Jamaah place the utmost importance on the discipline of knowledge.

On matters of *ibadat* (religious worship), all Muslims agree that the Al-Quran and Sunnah are still the two main sources of Islamic Law that is obligatory for them to obey and practice. Both are the constitutions that serve as the guidance and reference for Muslims while on this earth. This fact cannot be denied by anyone except the infidels and *munafiqs* (hypocrites).

Originally, it is obligatory for each Muslim to derive the rules and laws of Allah s.w.t directly from these two sources. However, reality has proven that not all Muslims can extract the rulings directly from the Al-Quran and Sunnah. It is evident that only a portion is capable and qualified to do so for example the imams of the four main Madh'habs (schools of thoughts) - Hanafi, Maliki, Syafi'e and Hanbali.

The scholars of principles (*Usul Ulama*s) are in accord that the person who is capable of extracting (*istinbat*) the rulings directly from its source is obliged to adhere to and practice the result of his interpretation (*ijtihad*). He is not at all allowed to take the result of the other scholars' interpretations. The obligation to practice the result of his interpretation is absolutely his whether it corresponds to the truth as demanded by Allah s.w.t or otherwise. What is important is that a *mujtahid* (scholar of Islamic Law with comprehensive understanding of the texts and reality) has exhausted all his abilities to understand the evidence of Islamic Law based on a predetermined academic methodology.

Imam al-Ghazali stated in his book, al-Mustasfa: “*The Usul ulamas are all in agreement that when a person has made ijtiḥad (interpretation) and has acquired the ruling based on his strong conjecture (zann), then he must no longer taqleed to other mujtahid that opposes his ijtiḥad. And he cannot practice other ijtiḥad and abandon his own ijtiḥad*”<sup>1</sup>.

That is also the view of other members of the *Usul* like Ibn al-Humam. He mentioned in his book al-Tahrir: “*A Mujtahid who has made ijtiḥad of a ruling, is prohibited to taqleed in that ruling according to a consensus by the Usul Ulamas*”<sup>2</sup>.

Such is the position of a *mujtahid* on the laws of Allah s.w.t that is written in the Al-Quran and Sunnah. The level of a *mujtahid* is decidedly not equal to the group of people who are not capable of *ijtiḥad* or those referred to as the public. Public means having the knowledge to practice the Islamic rules and laws that are in existence but not being able to extract each ruling from its source. This explanation does not absolve the obligation to practice religious worship for the people who are not capable of *ijtiḥad*. For this group, the Islamic scholars make it obligatory for them to follow or to *taqleed* to a *madh’hab*. However, this view is opposed by a group that says that it is prohibited (*haram*) to do so.

Here lies a difference of opinion among Muslims. They are divided into two large groups:

First: A group of *Usul Ulamas* (scholars of fundamentals) is of the opinion that adhering to a *Madh’hab* is prohibited (*haram*). Muslims are obligated (*wajib*) to follow what is contained in the Al-Quran and Sunnah directly without the medium of *Madh’habs*. Among the scholars who share this view are Khajandi, Nasiruddin al-Albani and Ibn Hazm.

Second: The majority of *Usul Ulamas* are of the opinion that adhering to a *Madh’hab* for the public is permissible (*harus*). In fact, for the public that is really pure, adhering to a *Madh’hab* is obligatory (*wajib*). They only differ in opinions - whether following a *madh’hab* is in terms of *taqleed* or *iitiba’*.

## THE GROUP REJECTING MADH’HABS

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<sup>1</sup> Al-Ghazali (1973), al-Mustasfa, Egypt: Maktabat Tijariyyah al-Kubra, v.2pg.121.

<sup>2</sup> Ibn al Humam, al-Tahrir fi Usul al-Fiqh, Egypt: Mustafa al-Babi al-Halabi, v.4,pg.535.

To the first group, adhering to a Madh'hab is absolutely prohibited. Some of them even claim that the followers of the four madh'habs are infidels and deviants. This opinion is contained in a dissertation entitled "*Hal lilmuslim mulzamun bittiba' madh'habin mu'ayyan minal mazahibul arba'ah*" by Muhammad Sultan al-Ma'sum al-Khajandi al-Makki. The dissertation is quoted by Dr. Said Ramadan al-Buti in his book entitled "*Alla Madh'habiyyah Akhtaru Bis'atin Tuhaddidu al-Syariat al-Islamiyyah*" that concluded that the view of al-Khajandi is dangerous and deviant.

Al-Buti supports the view that following a Madh'hab is permissible (*harus*). And for the public it is obligatory (*wajib*). Among the statements of al-Khajandi, "*Islam is no more than groups of laws that can be counted and are very few and can be understood by every Arab or every Muslim... and verily the Madh'habs are no more than opinions of the people of knowledge in understanding an issue. Neither Allah nor His Messenger (peace and blessings be upon him) compels anyone to follow these opinions*"<sup>3</sup>.

What can be understood from the statement above is that al-Khajandi wants to explain the non-necessity of Madh'habs because the teachings of Islam is very little and very simple and moderate that everybody is able to understand it directly from the Al-Quran and Sunnah. As such, there is no need for Muslims to follow Madh'habs with the *mujtahids* because they (Muslims) themselves are allowed to extract the teachings from the Al-Quran and Sunnah.

This statement is similar to the statement by a German orientalist named Scacht who is known to have a deep hatred towards Islam. He once said, "*Indeed the Islamic jurisprudence compiled by the imams of the madh'habs is a special legal creation by the brain which is attached to the Book and Sunnah*"<sup>4</sup>.

Khajandi also said: "*Whoever holds to all the opinions of Abu Hanifah, Malik, Syafi'e, Ahmad or the others and do not follow what is in the Book and the Sunnah, then he has*

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<sup>3</sup> Al-Buti, Sa'id Ramadan (1981), *Alla Madh'habiyyah*, Pent. Anas Tahir Syamsudin, Surabaya: Bina Ilmu, pg.66

<sup>4</sup> Ibid, pg. 68

*faulted the ijma' (consensus) of followers and is on a path not treaded by believers (mukmin)"<sup>5</sup>.*

Khajandi also mentions elsewhere, *"...following Madh'habs is included as an act of bid'ah (innovation), deviance and blasphemous, because, in following that person, it is the same as considering the head of madh'habs and the imams as God other than Allah"<sup>6</sup>.*

A Hassan Bandung once made a statement in a similar vein as the above elaboration, he said, *"Adhering to a Madh'hab has the same meaning and intent as taqleed. Both are forbidden by Allah, the Messenger, Companions and even the imams that are the subjects of taqleed"<sup>7</sup>.*

He further added, *"Exiting from a Madh'hab is not haram (prohibited), but wajib (obligatory). Adhering to a Madh'hab is not wajib (obligatory) but haram (prohibited)"<sup>8</sup>.*

All his statements are found to be directing towards one meaning and aim that is that adhering to a Madh'hab is *haram* (prohibited). Ibn Hazm takes the same stand as the other two Islamic scholars. In his book, *al-Muhalla*, he mentioned, *"Islam that is the obligation of everyone to follow cannot be taken except from the Al-Quran and authentic Sunnah"<sup>9</sup>.*

*"A Muslim cannot follow (mujtahid) someone either living or dead and everyone must (obligatory) exercise ijtihad corresponding to their ability"<sup>10</sup>.*

Understanding the reality of Muslims today, the opinions of the anti Madh'hab group are difficult to accept and is in fact a danger to the purity of Islamic Law. The Islamic Law will be polluted and tainted should the teachings written in the Al-Quran and Sunnah which is in Arabic is extracted and *istinbat* (derived) by persons who are not scholars. This fact cannot be denied.

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<sup>5</sup> Ibid, pg. 73

<sup>6</sup> Ibid, pg.27

<sup>7</sup> A, Hassan Bandung (1980), *Risalah al-Madh'hab*, Bangil: Pustaka Abdul Muis, pg. 12

<sup>8</sup> Ibid, pg. 23

<sup>9</sup> Ibn Hazm(1965), *al-Muhalla*, Beyrouth:Maktabat Tijariyyah, vol.1, pg.50

<sup>10</sup> Ibid, pg.66

It must be acknowledged that the majority of Muslims in this world possess very minimal knowledge in matters of religion. Although they are generally highly educated, that is not the pre-requisite to allow them to freely make use of the evidences in the Al-Quran and Sunnah. The understanding and the study of the evidences of Islamic Law need a high degree of mastery in specific disciplines of Islamic knowledge for example the Arabic Language, *Usul Fiqh* (Jurisprudence Principles), *Ulum al-Hadith*, *Usul al-Tafsir* and others.

Imagine that with this inability, they are still forced to *ijtihad* and are prohibited to adhere to Madh'habs. How can they carry out the teachings of the religion that is the obligation of each Muslim? In this matter, al-Amudi said, "...a person who do not have the capability to *ijtihad*, when an issue (of ruling) arises then there are for him two possibilities. The first: He is not obliged to do anything (is not obliged to perform the ibadah (worship), this is against *ijma'* (consensus). The second: He is obliged to perform the ibadah, (therefore) this means he has to study the *dalil* (evidences) that sets a certain ruling or he has to *taqleed*. The first is clearly unacceptable. There is no other possibility other than *taqleed* and that is his obligation when met with a problem that requires the *istinbat* (issue) of a ruling"<sup>11</sup>.

## THE GROUP PERMITTING MADH'HAB

Meanwhile, the second group is in agreement on the need to follow the opinions and the *fatwas* (rulings) of the *imams* of Madh'habs. They only have different opinions in the matter - whether the permission to adhere to Madh'hab is in terms of *taqleed* or *ittiba'*. The majority of *Usul Ulama* is of the opinion that Muslims who have not reached the level of *mujtahid* is obligated to adhere to Madh'hab. For them, there is no difference between the term *taqleed* and *ittiba'*, both deliver the same conclusion that is adherence to Madh'hab. Neither do they make the distinction between the pure public and the public with the knowledge but not reaching the level of *mujtahid*, both are still considered public.

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<sup>11</sup> Al-Amudi (1955), *al-Ihkam fi Usul al-Ahkam*, Qahirah: Muassat al-Halabi wa Syuraka'uhu, v.5, p. 198

The obligation of the public is to ask from a scholar that is the *mujtahid*. When a person asks or follows a *mujtahid* (Madh'hab) then he is said to adhere to a Madh'hab. In this matter, Ibn al-Subki said in his book, *Jam'ul Jawami'*, "A person other than an absolute *mujtahid*, whether he is public or otherwise, is obligated to taqleed to a *mujtahid* based on the verse "then ask the people of remembrance if you do not know"<sup>12</sup>.

Al-Amudi said, "The public and a person who do not have the membership to *ijtihad*, although is capable of producing a part of prominent knowledge (*mu'tabar*) in *ijtihad*, is obligated to follow the opinions of the *mujtahids* and adhere to the fatwas (rulings), and such according to the *tahqiq* members from the *usul ulamas*"<sup>13</sup>.

Meanwhile Ibn al-Humam stated, "Apart from absolute *mujtahid*, it is obligatory (*wajib*) to taqleed even if he is a partial *mujtahid* (*fiqh* problem) or a partial knowledge, the matter is founded on the opinion that *ijtihad* can happen in a part of the problem only"<sup>14</sup>.

While Khudhari Bek is of the opinion that, "It is *wajib* (obligatory) for the public to ask for fatwa (ruling) and to follow the Islamic scholars"<sup>15</sup>.

From the statements of the *Usul Ulama*s mentioned, it is evident that the obligation to adhere to Madh'hab for those apart from absolute *mujtahids* is *wajib* (obligatory). Either the pure public or even the public in the sense that they have not reached the level of absolute *mujtahid*, even though they are capable of exercising *ijtihad* in a part of the problem. This is based on the opinion that *ijtihad* can happen in part of the *fiqh* problem. According to Ibn al-Humam, this opinion is a true opinion. For the opinion that states that exercising *ijtihad* is a must for the whole *fiqh* problem, then the obligation to adhere to Madh'hab for those who are not *mujtahids* are the more absolute, because to them there is no terminology of partial *ijtihad*, in fact the *ijtihad* must be for the whole *fiqh* problem.

Similarly, this group also does not put as condition the need to know the *dalil* (evidence) or the foundation of the ruling that form the basis of the ruling made by the *mujtahid* that is followed. Meanwhile, another group obligates the person adhering to the Madh'hab to

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<sup>12</sup> Ibn al-Subki (1965), *Jam'ul Jawami'*, Surabaya: Syarikat Maktabah Said bin Nubhan wa Awladuhu, v.2p.393

<sup>13</sup> Al-Amudi, op.cit.,p. 197

<sup>14</sup> Ibn al-Human, op.cit., p 549

<sup>15</sup> Khudhari Bek (1960), *Usul al-Fiqh*, Egypt: Maktabat Tijariyyah al-Kubra, pg. 382

know the *dalil* (evidences) used by the *mujtahid* that he wishes to follow. This is termed as *ittiba'* and not mere *taqleed* (imitation).

*Ittiba'* means following the opinions of a *mujtahid* (Madh'hab) by knowing the basic ruling of his opinion. To clarify, the meaning of *ittiba'* and *taqleed* are, “*Taqleed is not ittiba'. Ittiba' is following someone because his evidence is clear and his Madh'hab is legitimate. While taqleed is following someone and accepting his opinion without knowing the source of his ruling and not following other opinions even though it is obvious that what is followed is wrong*”.<sup>16</sup>

The statement above reiterates that the type of *taqleed* that is forbidden is following the opinion of a *mujtahid* blindly. That is accepting whatever is issued by a Madh'hab even though the *dalil* (evidence) is weak. Reinforced by a high level of fanaticism, although it is evident that there are other *dalils* (evidences) which are stronger and more solid.

#### **ADHERERING TO ONE MADH'HAB**

Al-Syaukani said, “*The scholars who allow taqleed differ in opinion, is it obligatory to the public to adhere to a certain Madh'hab (only one Madh'hab?) A group affirms: Obligatory, Ilkia al-Hirasi chooses this opinion. The others say: Not obligatory, it is strengthened (tarjih) by Ibn Burhan and al-Nawawi, that is the Madh'hab Hanbali. They take evidence (dalil) by stating that the Companions r.a. did not prohibit the public from following some of them in some problems and following others on other problems. Even the Salaf in the past had taqleed with anyone they chose before the conception of Madh'habs*”<sup>17</sup>.

Wahbah al-Zuhaili discussed this issue by dividing the views of the *Usul Ulama*s into three. The first opinion states that it is obligatory to be committed to one particular Madh'hab with full belief that it is true. Therefore, it is obligatory to practice religious worship based on what it (Madh'hab) believes.

Meanwhile, the majority of the *Usul Ulama*s are of the opinion that it is not obligatory to *taqleed* to a particular Madh'hab in all matters and events faced. In fact, they feel that it is

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<sup>16</sup> Hasbi, al-Siddiqi, *Pokok-pokok Pegangan Imam-imam Madh'hab dalam Membina Hukum Islam*, Jakarta: Bulan Bintang, p. 157

<sup>17</sup> *Al-Mausu'ah al-Fiqhiyyah al-Kuwaitiyyah* (1427), Kuwait: Wizarat al-Auqaf wa al-Syu'un al-Islamiyyah, v.13, p. 164

possible to follow or *taqleed* with any *mujtahid* according to one's choice. Even if a person is an adherent of a particular Madh'hab, for example, Abu Hanifah or Syafi'e and other than the two, there is no obligation to continuously follow it. In fact, it is possible to shift from one Madh'hab to another. It means that there is no obligation other than what is obligated by Allah and His Messenger (peace and blessings be upon him). Al-Zuhaili considered this the view that is most *rajih* (true) among the *Usul Ulama*s.

The third view that is pioneered by al-Amidi and al-Kamal ibn al-Humam details the problem as follows; if a person habitually follows a certain Madh'hab on certain problems, then he should not *taqleed* to others in these problems. While on problems that do not involve his commitment to his Madh'hab, then he may follow other Madh'habs. It means that there is no syara' (Islamic Law) ruling that obligates a person to only follow what is habitual to him. In fact, the syara' compels one to follow the scholars without having to specify only one particular scholar.<sup>18</sup>

From the debates above, it can be understood that it is not easy to understand and to practice the *taqleed* of Madh'hab. There are conditions and each has its own problems. The question is, how far can the public today, specifically in Malaysia, practice *taqleed* to a Madh'hab?

In the collection of al-Azhar fatwas, there is an extract from the words of Ibn Amir Hajj that says, "...it is not justifiable for the public to adhere to a Madh'hab even though he is *tamadh'hab* (adheres to a certain Madh'hab) because adherence to a Madh'hab can only happen to someone who is able of analysing, extracting *dalil* (evidence) and study the Madh'habs according to his capability. Or anyone reading books on *furu'* (subsidiary) matters of a Madh'hab and know the fatwas and the views of his imam. Whoever is not capable of this, but (admits to himself) by declaring I am (Madh'hab) Hanafi, I am (Madh'hab) Syafi'e or others, it will not become true merely by speech. It is the same if he says that he is a scholar of *fiqh*, a scholar of *nahu* or writer, he will not be that only through speech..."<sup>19</sup>

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<sup>18</sup> Al-Zuhaili, Wahbah, *al-Fiqh al-Islami wa Adillatahu*, Dimasyq: Dar al-Fikr, v.1, p.74

<sup>19</sup> *Fatawa al Azhar*, Egypt: Wizarat al-Auqaf al-Misriyyah, v.7, p. 173



Based on this view, Syeikh Hasnain Muhammad Makhuluf concluded that it is the basis of why the quote, “*al-ami’ la Madh’haba lahu*” which means “*there is no Madh’hab for the public*”, is so popular among the scholars. He then extracted an opinion from the book *al-Bahr* under the chapter ‘*Qadha’ al-Fawait*’ that mentioned, “*...and should a public member have no particular Madh’hab, then his Madh’hab would be the fatwa of his mufti, (in fact) even if he does not ask fatwa from anyone but (his worship) is suitable with any Madh’hab mujtahid, it is sufficient*”<sup>20</sup>.

The statement above clearly shows that it is not easy for someone to admit that he ascribes to a Madh’hab. At the very least, an adherent to a Madh’hab has knowledge of the *furu’* (subsidiary) rules and laws ruled (fatwa) by the Madh’hab he ascribes to. However, at the public level, many among them are not capable of mastering this matter. The majority of the public will only ask any teachers that they trust each time they encounter certain difficult *furu’* (subsidiary) issues in their life.

In the Al-Azhar collection of fatwas, Syeikh Hasnain Muhammad Makhuluf puts the method of Madh’hab for the public as, “*Madh’hab al-‘ami fatwa muftihi al-ma’ruf bil ‘ilmi wa al-‘adalah*” meaning “*Madh’hab of the public is the fatwa of his mufti (teacher) that is known for his knowledge and honesty*”.

This debate is purposely brought up here so that the group that is anti Madh’hab, realises and agree that adhering to a Madh’hab is not as easy as they think. It is not blind *taqleed*. It also does not mean that the Al-Quran and Sunnah are intentionally ignored to idolise the *imam* and the Madh’hab. It is in fact a question of ability and capability of a person belonging to the general public, if even the question of Madh’hab cannot be fully undertaken by a member of the public, how can this group be burdened with the command to take the law directly from the Al-Quran and Sunnah? Are they able to?

## **IS IT POSSIBLE TO PRACTISE RELIGION WITHOUT MADH’HAB**

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<sup>20</sup> Ibid.

Lately, a new phenomenon has emerged among the younger generation who are intent on practicing religion purely based on their direct reading of the Al-Quran and Sunnah. Each law that is featured in the Madh'hab books on *fiqh* is questioned on its evidence and source. This phenomenon has prompted the religious scholars to present two approaches when answering. Either they answer based on the Madh'hab book on *fiqh* or directly presenting the evidence from the Al-Quran and Sunnah, as well as the sources of other laws.

Here lies the question, does this group genuinely wish to know the evidence to strengthen its understanding of the rulings? Or, are they beginning to doubt the *fiqh* based on Madh'hab and only seek to understand the rulings directly from its source that is the Al-Quran and Sunnah?

At a glance, this is a good development because the *ummah* wants to learn to understand based on evidence. Or to be more exact wants to learn through the Al-Quran and Sunnah. It is beyond doubt that we are obligated to adhere to both. However, what will happen if a member of the public is given a *manhaj* (method) that he does not know how to use. The *manhaj* (method) is to learn 'directly' from the Al-Quran and Sunnah!

As a member of the public who has not studied religion in detail, has not studied the evidence of syara' in detail, in fact has not found the evidence of syara' except in a limited quantity. Should a person like this says, that is not in accordance to the Sunnah. That is not in the Quran? That is only a tradition created by the Malay community. That is custom. That is *bid'ah*! And other suppositions that might be made based on the *manhaj* (method) taught by his teacher.

Would a situation like this not lead him to be involved in lies in the name of Allah and His Messenger (peace and blessings be upon him)? Perhaps there are many syara' evidences that can legalise a syara' ruling, but because of his ignorance of the evidence and his inability to exercise *ijtihad* and understand the evidence, he denies the existence of a certain ruling.

Therefore, calling for the community to leave the Madh'hab on the excuse to return to the Al-Quran and Sunnah is a meaningless effort. A Madh'hab should be understood as a

*manhaj* (knowledge discipline) for us to understand the Al-Quran and Sunnah. In Malaysia, we adhere to the Syafi'e Madh'hab especially in matters of *ibadah* (religious worship) and *munakahat* (rules of marriage) or also referred to as *fardhu 'ain*. However, in other fields like *mu'amalat*, *jinayat*, judgment and law as well as contemporary issues, the government and Muslims are not bound exclusively to the Syafi'e Madh'hab. Therefore, the accusation that the Muslims in Malaysia are obligated to adhere to one Madh'hab on all issues is an overstatement.

Adhering to the Syafi'e Madh'hab in the area of *fardhu 'ain* as what is practiced now, does not mean that we reject the views of other Madh'habs. This opinion is taken only based on the inability of a person to practice in his religious worship. In actual fact, the original rule of adhering to a Madh'hab is not obligatory, but if one is not a *mujtahid*, practicing according to the fatwa of a *mujtahid* (Madh'hab) is obligatory in view that there is no other way to know the syara' ruling other than adhering to a Madh'hab.

In the same matter, a member of the public is not capable of *tarjih* that is to evaluate the strongest opinion or evidence between the Madh'habs. This inability requires him to adhere only to the Madh'hab he is ascribed to. Dr. Muhammad Said Ramadhan al-Buti firmly stated that whoever is capable to *tarjih* between the Madh'habs, then he is a *mujtahid* and his knowledge is above the knowledge of the preceding Madh'hab *mujtahids*.

In conclusion, it is only by mastering the highest knowledge discipline can a person able to make the choice on what is the most authentic and true among the Madh'habs. Such is surely impossible to happen for the public.

## **BID'AH IN THE ISSUE OF KHILAFIYYAH?**

A small group of the anti Madh'hab proponents consider that in many matters, adhering to a Madh'hab can lead to *bid'ah* (innovation). They base it on several arguments. Among them that there are opinions of the Madh'hab that are outwardly against the evidence of the Al-Quran and Sunnah; not mentioned in the Al-Quran and Sunnah; the Al-Quran and

Sunnah are silent on the matter; go against authentic hadith; go against the imam of one's Madh'hab; not practiced by the *salaf* scholars and various other claims.

Most of the issues raised by this group are more revolved on the issues of the branches of *fiqh*. However, the *bid'ah* accusation that is made by them towards the communities that do not accept their argument has caused a small issue to escalate into something bigger. Briefly are presented several issues that have been raised by the anti Madh'hab group from several points of *fiqh* issues as well as the responses by adherents to Madh'habs:

- a) Denying the recommended *ihram* prayer. This view is in opposition of the consensus by the Islamic scholars of the Madh'habs Maliki, Syafi'e and Hanbali that state that the recommendation to perform the recommended prayer before *ihram* is based on an outward Hadith by Rasulullah (peace and blessings be upon him) as narrated authentically by Bukhari and Muslim.
- b) Claiming that dog is not *najis* (filthy) but that only the Madh'hab says it is. This is based on a hadith narrated by al-Bukhari that showed that dogs once urinated and roamed the mosque. The response is that the ruling of *najis* on the body of the dog is deducted by analogy (*qiyas*) to the *najis* status of the dog's mouth as mentioned in an authentic hadith. This *Qiyas aulawi* is applied by the Syafi'e and Hanbali Madh'habs. The existence of the al-Bukhari hadith that mentioned that dogs once urinated and walked in the mosque is answered by Ibn Hajar al-Asqani as a hadith that was issued before the order for the area of the mosque be protected from *najis* and dirt was carried out.
- c) Claiming that blood is not *najis* (filthy) but that only the Madh'hab claims it is. This is based on a *Hasan* hadith narrated by Abu Dawood that said that a companion was covered in blood yet still continued performing his prayer. This view is in contradiction with the consensus of all Madh'habs based on the evidence in the Al-Quran that clearly states that blood is *haram* (prohibited) for consumption. Imam al-Qurtubi while interpreting surah al-Baqarah verse 173 said: "*The Islamic scholars all concur that blood is haram (prohibited) and najis, cannot be consumed and cannot be profited*". Ibn Taimiyyah also said that the method to mention, the cleanliness and the *najis* of something is according to the *halal* and *haram* of a food or drink. However, it cannot be denied that there is a difference of

opinions among the Islamic scholars on the type and condition of certain blood. Therefore, each ruling cannot be absolute by only reading one *dalil* (evidence).

- d) Sayings that the urine of animals that are *halal* for consumption is clean based on an authentic hadith, can be made reason to deduce (*qiyas*) from the issue of the cleanliness of dogs. It is answered by explaining that it is an authentic hadith but the *istidlal* (legalisation) on the hadith differs according to the views of the Islamic scholars. According to the Syafi'e and Hanafi Madh'habs, the hadith that said that the urine of animals that can be consumed is clean is only in emergency cases for example for medical purposes.
- e) Claiming that the *imsak* time is something that contradicts the Sunnah of Rasulullah (peace and blessings be upon him) because it prohibits Muslims from eating and drinking before the dawn prayer time. This is responded by saying that the *imsak* time is an *ijtihad* by Syafi'iyyah Islamic scholars based on an authentic hadith that stated the period between the Prophet's (peace and blessings be upon him) supper (*sahur*) and the dawn prayers is approximately 50 verses. Using this hadith, the Islamic scholars say that is recommended that we stop eating and drinking 10 to 15 minutes before the commencement of the dawn prayer time. *Imsak* is *sunat* (recommended) and whoever that claims that the Syafi'e Madh'hab says that it is *wajib* (obligatory) is a lie and an unfounded accusation.
- f) Rejecting the matters that nullify fasting based on the *fiqh* of Madh'hab because based on the authentic hadith, there are only five matters that nullify fasting. It is answered by saying that the method to understand rulings only based on outward evidence is a method in the Ibn Hazm al-Zahiri Madh'hab. The matters that nullify fasting are discussed by the Islamic scholars of Madh'hab according to the method of *Usul al-Fiqh* (foundational) and not merely looking at the outward evidence.
- g) Questioning the *iqamah* recitations and the *duu'a* after. It is answered that the recitation of the *iqamah* and the *duu'a* after is the consensus of the Islamic scholars. Among the *fatwas* permitting it are the fatwa of "Standing Committee and the Scientific Research" (*Lajnah Tetap Bagi Kajian Ilmiah*) and the fatwa of the Government of Saudi Arabia.
- h) Questioning the reading aloud of the Basmallah. It is answered that reading out the Basmallah loudly or softly is *fiqhi khilaf* among the Islamic scholars. For the Syafi'e

Madh'hab, reading the basmalah out aloud is *sunat mua'kkad* (very recommended).

- i) Questioning the act of wiping the face after the salaam. It is answered by saying that the act of wiping the face is declared through a *dha'if* hadith and it is an overstatement to consider the person who does that as a member of *bid'ah*.
- j) Rejecting the *talqin* after a burial. It is answered by saying that the practice of *talqin* is *sunat* (recommended) based on the Syafi'e and Hanbali Madh'habs. Imam Nawawi said that although the hadith is *dha'if*, it is however supported by authentic hadiths and based on the generality of Al-Quran verses that commands that men continue to remind each other.

The issues above are included in the discussion in the branches of *fiqh*. The difference of opinions has persisted for a long time. The *Usul Ulama*s say that the difference in the branches of *fiqh* cannot be considered *bid'ah*. 'Allal al-Fasi said, "*And is not included as bid'ah, the fatwas of mujtahid Islamic scholars, even though they issue views that have never been issued, provided they base it on evidences of syariah*".<sup>21</sup>

## THE LESSON OF AL-BANNA ON THE ISSUE OF KHILAFFIYAH

Al-Qaradawi once brought up a story that happened to al-Syahid Imam Hasa al-Banna, the founder of the *Ikhwan al-Muslimin* movement in Egypt. It is an interesting story that should be appreciated by all those on religious mission that wish to defend Islam especially in ensuring the unity of Muslims.

Al-Banna noted down in his *Muzakkirat* an incident that happened when he was delivering a religious class when he was still in his twenties. He delivered the class between *Maghrib* and *Isya'* in a corner of a small mosque. After a while, the class attracted attention and the crowd grew. Among the attendees were those who maintained the attitude and the old stance in matters of *khilaf* (differences) and enjoyed stirring the embers of debate.

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<sup>21</sup> *Maqasid al-Syariah*, pg. 184. Read the article by the writer entitled *Bid'ah: Between Two Approaches* in the JAKIM Research Journal no.20/2007

One night, al-Banna could sense a difference in the crowd that gathered. It was as if there were different groups among the listeners including in their seating positions. That night, even before al-Banna could begin his class, he was suddenly asked a question. *“What is your view on the issue of tawassul?”* And al-Banna answered: *“Dear brother, I am of the opinion that you do not mean to ask about this issue only, but you also want to ask about the selawat (prayer for the Prophet Muhammad [peace and blessings be upon him]) after the azan (call to prayer), reading the Surah al-Kahfi on Fridays, the utterance of siyadah Rasul in the tasyahhud, what is the status of the parents of the Prophet Muhammad (peace and blessings be upon him) in the afterlife, whether the reading of the Al-Quran reaches the dead, is the groupings by the members of tariqat a sin or qurbah (nearing oneself to God), and various other issues”.*

Al-Banna intentionally listed these *khilaf* matters that have ignited the fire of slander for so long until the man who asked the question was shocked. And the man replied: *“Yes, I want the answers to all those questions!”*

And al-Banna replied: *“My brother, I am not a pious man, but I am a city teacher who memorised some al-Quran verses and some of the Prophet’s (peace and blessings be upon him) hadiths and have knowledge of several religious rulings after consulting books. And I offered myself to teach this knowledge to the public. Therefore, if you ask me questions that are beyond what I know then you have put me at a disadvantage, while anyone who says that I do not know he has also made a fatwa. If you are satisfied with what I deliver, and see in it goodness, then listen to it. If you want to know even more, then ask the expert Islamic scholars other than me. They are capable of issuing fatwas on what you want. As for me, this is the limit of my knowledge, verily, Allah does not burden a person with more than is necessary”.*

That was the answer of al-Banna to the man, and the man in reality, did not get any answer from al-Banna. But the speech by al-Banna satisfied the crowd or at least most of them. With the opportunity that he had, al-Banna continued his speech by saying:

*“My brothers, I know that the brother who asked earlier, including many of you here, has no other intention but to find out, from which group is this new student? Is he from the group of Syeikh Musa or from the group of Syeikh Abdul Sami”?! This knowledge*

*does not give you any benefit, while you have wasted time in lies for eight years and let that be enough. Those issues have divided Muslims for hundreds of years and they still differ in opinions until today, but Allah s.w.t wants us to have love for each other and to unite and hates disunity and quarrels. Therefore, I urge you all to promise to Allah s.w.t to abandon these matters now and work hard at studying the foundations of the religion and the methods, do good deeds with its behaviour, the general advantages and the indicators that are agreed upon. And to execute all the obligations and the recommendations while forsaking the difficult attitude and being too rigid so that the heart can be pure. And let it be our aim to seek truth, not only to win on a point. At that time, we study together in an atmosphere of love, trust, unity and sincerity. I hope that you accept my views and hope it becomes a treaty between us to do so”.<sup>22</sup>*

## **MESSAGE TO THE ANTI MADH’HAB**

The lesson that can be taken, let not decide in the matters of *khilaf* on the basis that it is definitive (*muktamad*) based on the Sunnah. It is nearer to the Sunnah. It is more true based on the Sunnah. This is true, but can all the *ummah* be forced to understand the matter in that way?

Dr. Yusof al-Qaradawi said, “*And many matters influence the understanding of man because of their intellect (that differs), their situation, their spiritual inclination and their thoughts. Therefore, a person who is firm will understand the evidence unlike a person who is soft. Because of this, the Islamic heritage is famous with the syada’id (firmness) of Ibn Umar and the rukhas (lightness) of Ibn Abbas. Those with a wide view will understand the evidence unlike the narrow minded will... and for Allah there is wisdom for Him to make the evidence receive a variety of opinions*”.<sup>23</sup>.

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<sup>22</sup> Al-Qaradawi, Yusuf (1995), *Fi al-Fiqh al-Awlawiyyat*, Qahirah: Maktabat Wahbah, pg. 266-267

<sup>23</sup> Ibid.,pg 77



Al-Qaradawi then continued in another section, “*what needs to be opposed and the bearer rejected are those who reject the syara’ evidence that is definitive in terms of its thubut (authenticity) and dilalah (its meaning)*”.<sup>24</sup>

This is the group that really needs to be confronted. They should have ‘war’ declared upon them because they reject the existence of *syariat* (rules) in Islam. Islam to them is a religion without *syariat* (rules), without nation, without any bond of evidence. What there is are only intellectual and rationales. This should be the target of real missionaries, if they really wish to return the *ummah* to the Al-Quran and Sunnah.

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<sup>24</sup> Ibid., pg.78. Please read the portion al-Awlawiyyat fi al-Ara’ al-Fiqhiyyah in its totality from pg. 75-80, very good advice for those on a religious mission that are involved in khilafiyyah issues.